



FISHERIES ADMINISTRATIVE

ORDER NO. _____ :

Series of 2022

SUBJECT: RULES AND REGULATIONS FOR THE PROTECTION OF CETACEANS AND WHALE SHARKS FROM PURSE SEINE AND RING NET FISHING OPERATIONS.

WHEREAS, the ecological and cultural significance of cetaceans and whale sharks are universally recognized;

WHEREAS, the FAO Code of Conduct for Responsible Fisheries (CCRF) specifically addresses biodiversity issues and conservation of endangered species and calls for the catch of non-target species, both fish and non-fish species, to be minimized. Article 7.2.2d of the CCRF also calls for the sustainable use of aquatic ecosystems and requires that fishing be conducted with due regard for the environment. The CCRF also promotes the maintenance, safeguarding and conservation of biodiversity by minimizing fisheries impacts on non-target species and the ecosystem in general;

WHEREAS, cetaceans and whale sharks are particularly vulnerable to being encircled by purse seine and ring nets, due cetaceans being attracted to fish schools as for prey;

WHEREAS, Articles 5(d) and (e) of the Convention on the Conservation and Management of High Migratory Fish Stocks in the Western and Central Pacific Ocean, required to adopt management arrangements for cetaceans as non-target and associated or dependent species, as they are incidentally caught by purse-seine fisheries in the WCPO.

WHEREAS, the Philippines is a contracting party of the Convention on the Conservation and Management of High Migratory Fish Stocks in the Western and Central Pacific Ocean and member of the Western and Central Pacific Fisheries Commission (WCPFC) which is the Regional Fisheries Management Organization of the Western and Central Pacific Ocean mandated to manage straddling and highly migratory species, including tropical tunas, billfishes, sharks, marine mammal and sea turtles;

WHEREAS, as a party of the Convention and a member of the WCPFC, the Philippines is mandated to observe and implement Conservation and Management Measures (CMM) adopted by the Commission;

WHEREAS, the WCPFC adopted CMM 2011-03 on the Conservation and Management Measure for Protection of Cetaceans from Purse Seine Fishing Operations;

WHEREAS, the WCPFC adopted CMM 2019-04 on the Conservation and Management Measure for Sharks

NOW THEREFORE, the following provisions of this Order are hereby adopted and implemented:

SECTION 1. Definition - The terms used herein shall be construed as follows:

- 1) Cetacean - a marine mammal of the order *Cetacea* ; a whale, dolphin, or porpoise.
- 2) Whale shark - a large elasmobranch of the family Rhincodontidae, of the species *Rhincodon typus* characterized externally by a broad, flattened head, a very large and nearly terminal mouth, very large gill slits, three prominent longitudinal ridges on its upper flanks, a large first dorsal fin, a semi-lunate caudal fin and a unique 'checkerboard" pattern of light spots and stripes on a dark background.
- 3) Ring Net – a surrounding net used for catching pelagic fishes hauled manually or by winch
- 4) Purse Seine – a surrounding net used for catching pelagic fishes characterized by a bag or bunt located on one end of the net hauled by puretic power block

SECTION 2. Prohibition

All Philippine flagged vessels operating in Philippine waters, high seas or in waters of other coastal states, are hereby prohibited from the following acts :

- 1) Setting a purse seine net or ring net on a school of fish associated with any species of cetacean and whale shark, if the animal is sighted prior to commencement of the set.
- 2) Retaining on board, transshipping, storing on a fishing vessel, or landing any cetacean or whale shark.

SECTION 3. Incident handling and reporting

In case that a cetacean or whale shark is unintentionally encircled by a purse seine or ring net, the vessel Captain or Masterfisherman of the fishing vessel shall :

- 1) Ensure that all reasonable steps are taken to ensure its safe release. This shall include stopping the net haul and not recommencing fishing operation until the animal has been released and is no longer at risk of recapture;
- 2) Report the incident to BFAR, including details of the species (if known) and number of individuals, location and date of such encirclement, steps taken to ensure safe release, and an assessment of the life status of the animal on release (including, if possible, whether the animal was released alive but subsequently died).
- 3) In taking steps to ensure the safe release of cetacean and whale shark as required under paragraph 3 (1), the vessel Captain or Masterfisherman will follow the guidelines provided in Attachments 1 and 2.

- 4) In applying steps under paragraphs 1 and 3, the safety of the crew shall remain overriding consideration.

Section 5. Sanctions.

- 1) Violation of any of the prohibited acts in Section 2 shall subject the Captain or Masterfisherman of a vessel to a fine of One hundred thousand pesos (Php 100,000.00) to Three hundred thousand pesos (Php 300,000.00) for small-scale commercial fishing, Four hundred thousand pesos (Php 400,000.00) to Seven hundred thousand pesos (700,000.00) for medium-scale commercial fishing, and Eight hundred thousand pesos (800,000.00) to One million pesos (1,000,000.00) for large scale commercial fishing.
- 2) Non-compliance to Section 3, para (1) or para (2) shall subject the Captain or Masterfisherman of a vessel to a fine of One hundred thousand pesos (Php 100,000.00) to Three hundred thousand pesos (Php 300,000.00) for small-scale commercial fishing, Four hundred thousand pesos (Php 400,000.00) to Seven hundred thousand pesos (700,000.00) for medium-scale commercial fishing, and Eight hundred thousand pesos (800,000.00) to One million pesos (1,000,000.00) for large scale commercial fishing.
- 3) The minimum fine shall be imposed for the first-time offenders. However, BFAR may impose the maximum fine for the fishing company who violated for the fourth time, including confiscation of catch and cancellation of CFVGL.

Section 6. Effectivity. This Order shall take effect fifteen (15) days after the publication in the Official Gazette and/or in two (2) newspapers of general circulation and upon registration with the National Administrative Register.

ISSUED this ___ day of ___, 2021 at Quezon City, Metro Manila, Philippines

WILLIAM D. DAR, PhD

Secretary

Recommending Approval:

EDUARDO B. GONGONA

BFAR National Director